

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TODD C. BANK, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

INDEPENDENCE ENERGY GROUP LLC and
INDEPENDENCE ENERGY ALLIANCE LLC,

Defendants.

Index No.: 1:12-cv-01369-JG-VMS

**DEFENDANTS' NOTICE OF
MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, upon the annexed Rule 56.1 Statement of Undisputed Material Facts of Defendants Independence Energy Group LLC and Independence Energy Alliance LLC, Declaration of Dana B. Klings in Support of Defendants' Motion for Summary Judgment, and all other pleadings and proceedings had herein, defendants Independence Energy Group LLC and Independence Energy Alliance LLC, by their attorneys, will move this Court before the Hon. John Gleeson, in the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, on Friday, June 5, 2015, at 11:00 a.m. in Courtroom 6C South, for an order pursuant to Fed. R. Civ. P. 56 granting summary judgment in favor of Defendants and against Plaintiff, entering a judgment pursuant to the terms of the Offer of Judgment served by Defendants on Plaintiff on March 19, 2015, and dismissing Plaintiff's claims as moot, or, alternatively, dismissing Plaintiff's claims due to lack of standing.

PLEASE TAKE FURTHER NOTICE that, pursuant to the scheduling order in this case, answering papers, if any, shall be served and filed on or before Friday, May 15, 2015.

PLEASE TAKE FURTHER NOTICE that, pursuant to the scheduling order in this case, reply papers, if any, shall be served and filed on or before Friday, May 22, 2015.

Dated: New York, New York
April 24, 2015

DUANE MORRIS LLP

/s/ Dana B. Klings
Dana B. Klings
30 South 17th Street
Philadelphia, PA 19103-4196
Telephone: 215.979.1000
Facsimile: 215.979.1020
Email: dklinges@duanemorris.com

Kevin P. Potere
1540 Broadway
New York, New York 10036
Telephone: 212.471.4720
Facsimile: 212.656.1219
Email: kppotere@duanemorris.com

Attorneys for Defendants Independence Energy Group LLC and Independence Energy Alliance LLC